## SENATE BILL No. 340

#### DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 6-3-1-3.5; IC 6-3-2-21.

**Synopsis:** Income tax exemption for patent income. Provides an exemption from adjusted gross income taxation for 50% of income that is derived from a qualified patent issued to a taxpayer domiciled in Indiana. Requires that a qualified patent must have resulted from a development process conducted in Indiana. Provides that a taxpayer may not claim more than \$1,000,000 in exemptions in a taxable year. Provides that a taxpayer may not claim an exemption for income derived from a particular qualified patent for more than ten years.

Effective: January 1, 2008.

### **Ford**

January 11, 2007, read first time and referred to Committee on Tax and Fiscal Policy.





#### First Regular Session 115th General Assembly (2007)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in this style type, and deletions will appear in this style type.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or *this style type* reconciles conflicts between statutes enacted by the 2006 Regular Session of the General Assembly.

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## SENATE BILL No. 340

A BILL FOR AN ACT to amend the Indiana Code concerning taxation.

Be it enacted by the General Assembly of the State of Indiana:

- SECTION 1. IC 6-3-1-3.5, AS AMENDED BY P.L.184-2006, SECTION 3, AND AS AMENDED BY P.L.162-2006, SECTION 24, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2008]: Sec. 3.5.When used in this article, the term "adjusted gross income" shall mean the following:
- (a) In the case of all individuals, "adjusted gross income" (as defined in Section 62 of the Internal Revenue Code), modified as follows:
  - (1) Subtract income that is exempt from taxation under this article by the Constitution and statutes of the United States.
  - (2) Add an amount equal to any deduction or deductions allowed or allowable pursuant to Section 62 of the Internal Revenue Code for taxes based on or measured by income and levied at the state level by any state of the United States.
  - (3) Subtract one thousand dollars (\$1,000), or in the case of a joint return filed by a husband and wife, subtract for each spouse one thousand dollars (\$1,000).



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1	(4) Subtract one thousand dollars (\$1,000) for:	
2	(A) each of the exemptions provided by Section 151(c) of the	
3	Internal Revenue Code;	
4	(B) each additional amount allowable under Section 63(f) of	
5	the Internal Revenue Code; and	
6	(C) the spouse of the taxpayer if a separate return is made by	
7	the taxpayer and if the spouse, for the calendar year in which	
8	the taxable year of the taxpayer begins, has no gross income	
9	and is not the dependent of another taxpayer.	
0	(5) Subtract:	
1	(A) for taxable years beginning after December 31, 2004, one	
2	thousand five hundred dollars (\$1,500) for each of the	
3	exemptions allowed under Section 151(c)(1)(B) of the Internal	
4	Revenue Code for taxable years beginning after December 31,	
5	1996 (as effective January 1, 2004); and	
6	(B) five hundred dollars (\$500) for each additional amount	
7	allowable under Section 63(f)(1) of the Internal Revenue Code	
8	if the adjusted gross income of the taxpayer, or the taxpayer	
9	and the taxpayer's spouse in the case of a joint return, is less	
20	than forty thousand dollars (\$40,000).	
21	This amount is in addition to the amount subtracted under	
22	subdivision (4).	
23	(6) Subtract an amount equal to the lesser of:	
24	(A) that part of the individual's adjusted gross income (as	
25	defined in Section 62 of the Internal Revenue Code) for that	
26	taxable year that is subject to a tax that is imposed by a	
27	political subdivision of another state and that is imposed on or	
28	measured by income; or	
29	(B) two thousand dollars (\$2,000).	
30	(7) Add an amount equal to the total capital gain portion of a	
31	lump sum distribution (as defined in Section 402(e)(4)(D) of the	
32	Internal Revenue Code) if the lump sum distribution is received	
33	by the individual during the taxable year and if the capital gain	
34	portion of the distribution is taxed in the manner provided in	
35	Section 402 of the Internal Revenue Code.	
66	(8) Subtract any amounts included in federal adjusted gross	
37	income under Section 111 of the Internal Revenue Code as a	
8	recovery of items previously deducted as an itemized deduction	
19	from adjusted gross income.	
10	(9) Subtract any amounts included in federal adjusted gross	
1	income under the Internal Revenue Code which amounts were	
12	received by the individual as supplemental railroad retirement	



1	annuities under 45 U.S.C. 231 and which are not deductible under
2	subdivision (1).
3	(10) Add an amount equal to the deduction allowed under Section
4	221 of the Internal Revenue Code for married couples filing joint
5	returns if the taxable year began before January 1, 1987.
6	(11) Add an amount equal to the interest excluded from federal
7	gross income by the individual for the taxable year under Section
8	128 of the Internal Revenue Code if the taxable year began before
9	January 1, 1985.
10	(12) Subtract an amount equal to the amount of federal Social
11	Security and Railroad Retirement benefits included in a taxpayer's
12	federal gross income by Section 86 of the Internal Revenue Code.
13	(13) In the case of a nonresident taxpayer or a resident taxpayer
14	residing in Indiana for a period of less than the taxpayer's entire
15	taxable year, the total amount of the deductions allowed pursuant
16	to subdivisions (3), (4), (5), and (6) shall be reduced to an amount
17	which bears the same ratio to the total as the taxpayer's income
18	taxable in Indiana bears to the taxpayer's total income.
19	(14) In the case of an individual who is a recipient of assistance
20	under IC 12-10-6-1, IC 12-10-6-2.1, IC 12-15-2-2, or IC 12-15-7,
21	subtract an amount equal to that portion of the individual's
22	adjusted gross income with respect to which the individual is not
23	allowed under federal law to retain an amount to pay state and
24	local income taxes.
25	(15) In the case of an eligible individual, subtract the amount of
26	a Holocaust victim's settlement payment included in the
27	individual's federal adjusted gross income.
28	(16) For taxable years beginning after December 31, 1999,
29	subtract an amount equal to the portion of any premiums paid
30	during the taxable year by the taxpayer for a qualified long term
31	care policy (as defined in IC 12-15-39.6-5) for the taxpayer or the
32	taxpayer's spouse, or both.
33	(17) Subtract an amount equal to the lesser of:
34	(A) for a taxable year:
35	(i) including any part of 2004, the amount determined under
36	subsection (f); and
37	(ii) beginning after December 31, 2004, two thousand five
38	hundred dollars (\$2,500); or
39	(B) the amount of property taxes that are paid during the
40	taxable year in Indiana by the individual on the individual's
41	principal place of residence.
42	(18) Subtract an amount equal to the amount of a September 11



1	terrorist attack settlement payment included in the individual's
2	federal adjusted gross income.
3	(19) Add or subtract the amount necessary to make the adjusted
4	gross income of any taxpayer that owns property for which bonus
5	depreciation was allowed in the current taxable year or in an
6	earlier taxable year equal to the amount of adjusted gross income
7	that would have been computed had an election not been made
8	under Section 168(k) of the Internal Revenue Code to apply bonus
9	depreciation to the property in the year that it was placed in
10	service.
11	(20) Add an amount equal to any deduction allowed under
12	Section 172 of the Internal Revenue Code.
13	(21) Add or subtract the amount necessary to make the adjusted
14	gross income of any taxpayer that placed Section 179 property (as
15	defined in Section 179 of the Internal Revenue Code) in service
16	in the current taxable year or in an earlier taxable year equal to
17	the amount of adjusted gross income that would have been
18	computed had an election for federal income tax purposes not
19	been made for the year in which the property was placed in
20	service to take deductions under Section 179 of the Internal
21	Revenue Code in a total amount exceeding twenty-five thousand
22	dollars (\$25,000).
23	(22) Add an amount equal to the amount that a taxpayer claimed
24	as a deduction for domestic production activities for the taxable
25	year under Section 199 of the Internal Revenue Code for federal
26	income tax purposes.
27	(23) Subtract income that is:
28	(A) exempt from taxation under IC 6-3-2-21; and
29	(B) included in the individual's taxable income under the
30	Internal Revenue Code.
31	(b) In the case of corporations, the same as "taxable income" (as
32	defined in Section 63 of the Internal Revenue Code) adjusted as
33	follows:
34	(1) Subtract income that is exempt from taxation under this article
35	by the Constitution and statutes of the United States.
36	(2) Add an amount equal to any deduction or deductions allowed
37	or allowable pursuant to Section 170 of the Internal Revenue
38	Code.
39	(3) Add an amount equal to any deduction or deductions allowed
40	or allowable pursuant to Section 63 of the Internal Revenue Code
41	for taxes based on or measured by income and levied at the state
12	level by any state of the United States



1	(4) Subtract an amount equal to the amount included in the	
2	corporation's taxable income under Section 78 of the Internal	
3	Revenue Code.	
4	(5) Add or subtract the amount necessary to make the adjusted	
5	gross income of any taxpayer that owns property for which bonus	
6	depreciation was allowed in the current taxable year or in an	
7	earlier taxable year equal to the amount of adjusted gross income	
8	that would have been computed had an election not been made	
9	under Section 168(k) of the Internal Revenue Code to apply bonus	
10	depreciation to the property in the year that it was placed in	4
11	service.	
12	(6) Add an amount equal to any deduction allowed under Section	`
13	172 of the Internal Revenue Code.	
14	(7) Add or subtract the amount necessary to make the adjusted	
15	gross income of any taxpayer that placed Section 179 property (as	
16	defined in Section 179 of the Internal Revenue Code) in service	4
17	in the current taxable year or in an earlier taxable year equal to	
18	the amount of adjusted gross income that would have been	
19	computed had an election for federal income tax purposes not	
20	been made for the year in which the property was placed in	
21	service to take deductions under Section 179 of the Internal	
22	Revenue Code in a total amount exceeding twenty-five thousand	
23	dollars (\$25,000).	
24	(8) Add an amount equal to the amount that a taxpayer claimed as	_
25	a deduction for domestic production activities for the taxable year	
26	under Section 199 of the Internal Revenue Code for federal	
27	income tax purposes.	
28	(9) Add to the extent required by IC 6-3-2-20 the amount of	
29	intangible expenses (as defined in IC 6-3-2-20) and any directly	
30	related intangible interest expenses (as defined in IC 6-3-2-20)	
31	for the taxable year that reduced the corporation's taxable	
32	income (as defined in Section 63 of the Internal Revenue Code)	
33	for federal income tax purposes.	
34	(10) Subtract income that is:	
35	(A) exempt from taxation under IC 6-3-2-21; and	
36	(B) included in the corporation's taxable income under the	
37	Internal Revenue Code.	
38	(c) In the case of life insurance companies (as defined in Section	
39	816(a) of the Internal Revenue Code) that are organized under Indiana	
40	law, the same as "life insurance company taxable income" (as defined in Section 801 of the Internal Poyenue Code), adjusted as follows:	
41	in Section 801 of the Internal Revenue Code), adjusted as follows:	
42	(1) Subtract income that is exempt from taxation under this article	



1	by the Constitution and statutes of the United States.	
2	(2) Add an amount equal to any deduction allowed or allowable	
3	under Section 170 of the Internal Revenue Code.	
4	(3) Add an amount equal to a deduction allowed or allowable	
5	under Section 805 or Section 831(c) of the Internal Revenue Code	
6	for taxes based on or measured by income and levied at the state	
7	level by any state.	
8	(4) Subtract an amount equal to the amount included in the	
9	company's taxable income under Section 78 of the Internal	
0	Revenue Code.	1
1	(5) Add or subtract the amount necessary to make the adjusted	
2	gross income of any taxpayer that owns property for which bonus	
3	depreciation was allowed in the current taxable year or in an	
4	earlier taxable year equal to the amount of adjusted gross income	
5	that would have been computed had an election not been made	
6	under Section 168(k) of the Internal Revenue Code to apply bonus	- 1
7	depreciation to the property in the year that it was placed in	,
8	service.	
9	(6) Add an amount equal to any deduction allowed under Section	
20	172 or Section 810 of the Internal Revenue Code.	
21	(7) Add or subtract the amount necessary to make the adjusted	
22	gross income of any taxpayer that placed Section 179 property (as	
23	defined in Section 179 of the Internal Revenue Code) in service	
24	in the current taxable year or in an earlier taxable year equal to	
2.5	the amount of adjusted gross income that would have been	
26	computed had an election for federal income tax purposes not	_
27	been made for the year in which the property was placed in	,
28	service to take deductions under Section 179 of the Internal	
29	Revenue Code in a total amount exceeding twenty-five thousand	1
30	dollars (\$25,000).	
31	(8) Add an amount equal to the amount that a taxpayer claimed as	
32	a deduction for domestic production activities for the taxable year	
3	under Section 199 of the Internal Revenue Code for federal	
4	income tax purposes.	
55	(9) Subtract income that is:	
66	(A) exempt from taxation under IC 6-3-2-21; and	
57	(B) included in the insurance company's taxable income	
8	under the Internal Revenue Code.	
19	(d) In the case of insurance companies subject to tax under Section	
10	831 of the Internal Revenue Code and organized under Indiana law, the	
1	same as "taxable income" (as defined in Section 832 of the Internal	
12	Revenue Code) adjusted as follows:	



1	(1) Subtract income that is exempt from taxation under this article	
2	by the Constitution and statutes of the United States.	
3	(2) Add an amount equal to any deduction allowed or allowable	
4	under Section 170 of the Internal Revenue Code.	
5	(3) Add an amount equal to a deduction allowed or allowable	
6	under Section 805 or Section 831(c) of the Internal Revenue Code	
7	for taxes based on or measured by income and levied at the state	
8	level by any state.	
9	(4) Subtract an amount equal to the amount included in the	_
10	company's taxable income under Section 78 of the Internal	
11	Revenue Code.	
12	(5) Add or subtract the amount necessary to make the adjusted	
13	gross income of any taxpayer that owns property for which bonus	
14	depreciation was allowed in the current taxable year or in an	
15	earlier taxable year equal to the amount of adjusted gross income	
16	that would have been computed had an election not been made	
17	under Section 168(k) of the Internal Revenue Code to apply bonus	
18	depreciation to the property in the year that it was placed in	
19	service.	
20	(6) Add an amount equal to any deduction allowed under Section	
21	172 of the Internal Revenue Code.	
22	(7) Add or subtract the amount necessary to make the adjusted	
23	gross income of any taxpayer that placed Section 179 property (as	
24	defined in Section 179 of the Internal Revenue Code) in service	
25	in the current taxable year or in an earlier taxable year equal to	
26	the amount of adjusted gross income that would have been	
27	computed had an election for federal income tax purposes not	
28	been made for the year in which the property was placed in	
29	service to take deductions under Section 179 of the Internal	
30	Revenue Code in a total amount exceeding twenty-five thousand	
31	dollars (\$25,000).	
32	(8) Add an amount equal to the amount that a taxpayer claimed as	
33	a deduction for domestic production activities for the taxable year	
34	under Section 199 of the Internal Revenue Code for federal	
35	income tax purposes.	
36	(9) Subtract income that is:	
37	(A) exempt from taxation under IC 6-3-2-21; and	
38	(B) included in the insurance company's taxable income	
39	under the Internal Revenue Code.	
40	(e) In the case of trusts and estates, "taxable income" (as defined for	
41	trusts and estates in Section 641(b) of the Internal Revenue Code)	
42	adjusted as follows:	



1	(1) Subtract income that is exempt from taxation under this article
2	by the Constitution and statutes of the United States.
3	(2) Subtract an amount equal to the amount of a September 11
4	terrorist attack settlement payment included in the federal
5	adjusted gross income of the estate of a victim of the September
6	11 terrorist attack or a trust to the extent the trust benefits a victim
7	of the September 11 terrorist attack.
8	(3) Add or subtract the amount necessary to make the adjusted
9	gross income of any taxpayer that owns property for which bonus
10	depreciation was allowed in the current taxable year or in an
11	earlier taxable year equal to the amount of adjusted gross income
12	that would have been computed had an election not been made
13	under Section 168(k) of the Internal Revenue Code to apply bonus
14	depreciation to the property in the year that it was placed in
15	service.
16	(4) Add an amount equal to any deduction allowed under Section
17	172 of the Internal Revenue Code.
18	(5) Add or subtract the amount necessary to make the adjusted
19	gross income of any taxpayer that placed Section 179 property (as
20	defined in Section 179 of the Internal Revenue Code) in service
21	in the current taxable year or in an earlier taxable year equal to
22	the amount of adjusted gross income that would have been
23	computed had an election for federal income tax purposes not
24	been made for the year in which the property was placed in
25	service to take deductions under Section 179 of the Internal
26	Revenue Code in a total amount exceeding twenty-five thousand
27	dollars (\$25,000).
28	(6) Add an amount equal to the amount that a taxpayer claimed as
29	a deduction for domestic production activities for the taxable year
30	under Section 199 of the Internal Revenue Code for federal
31	income tax purposes.
32	(7) Subtract income that is:
33	(A) exempt from taxation under IC 6-3-2-21; and
34	(B) included in the taxpayer's taxable income under the
35	Internal Revenue Code.
36	(f) This subsection applies only to the extent that an individual paid
37	property taxes in 2004 that were imposed for the March 1, 2002,
38	assessment date or the January 15, 2003, assessment date. The
39	maximum amount of the deduction under subsection (a)(17) is equal
40	to the amount determined under STEP FIVE of the following formula:
41	STEP ONE: Determine the amount of property taxes that the

taxpayer paid after December 31, 2003, in the taxable year for



1	property taxes imposed for the March 1, 2002, assessment date
2	and the January 15, 2003, assessment date.
3	STEP TWO: Determine the amount of property taxes that the
4	* * *
5	taxpayer paid in the taxable year for the March 1, 2003, assessment date and the January 15, 2004, assessment date.
	STEP THREE: Determine the result of the STEP ONE amount
6 7	
8	divided by the STEP TWO amount.
9	STEP FOUR: Multiply the STEP THREE amount by two thousand five hundred dollars (\$2,500).
10	STEP FIVE: Determine the sum of the STEP FOUR amount and
11	
12	two thousand five hundred dollars (\$2,500). SECTION 2. IC 6-3-2-21 IS ADDED TO THE INDIANA CODE
13	AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE
14	JANUARY 1, 2008]: Sec. 21. (a) As used in this section, "invention"
15	has the meaning set forth in 35 U.S.C. 100(a).
16	(b) As used in this section, "qualified patent" means:
17	(1) a utility patent issued under 35 U.S.C. 101; or
18	(2) a plant patent issued under 35 U.S.C. 161;
19	after December 31, 2007, for an invention resulting from a
20	development process conducted in Indiana. The term does not
21	include a design patent issued under 35 U.S.C. 171.
22	(c) As used in this section, "qualified taxpayer" means a
23	taxpayer that is domiciled in Indiana. The term does not include an
24	institution of higher learning or a holding company.
25	(d) Subject to subsections (e) and (f), in determining adjusted
26	gross income or taxable income under IC 6-3-1-3.5, a qualified
27	taxpayer to whom a qualified patent has been issued is entitled to
28	an exemption from taxation under IC 6-3-1 through IC 6-3-7 for
29	fifty percent (50%) of the following:
30	(1) Income derived from making, using, or selling an
31	invention protected by the qualified patent.
32	(2) Royalties received from an assignment or license of the
33 34	qualified patent.
35	(3) Damage awards or settlement proceeds recovered for infringement of the qualified patent.
36	(e) The aggregate amount of exemptions claimed under this
37	section by a qualified taxpayer in a taxable year may not exceed
38	one million dollars (\$1,000,000).
30 39	(f) A taxpayer may not claim an exemption under this section
39 40	with respect to a particular qualified patent for more than ten (10)
41	taxable years.
42	(g) To receive the exemption provided by this section, a qualified
42	(g) 10 receive the exemption provided by this section, a quantied



department. The qualified taxpayer must submit to the department all information that the department determines is necessary for the determination of the exemption provided by this section.  (h) The department may adopt rules and prescribe forms to implement this section.  SECTION 3. [EFFECTIVE JANUARY 1, 2008] (a) IC 6-3-1-3.5, as amended by this act, applies only to taxable years beginning after December 31, 2007.  (b) IC 6-3-2-21, as added by this act, applies to taxable years beginning after December 31, 2007.	department. The qualified taxpayer must submit to the department all information that the department determines is necessary for the determination of the exemption provided by this section.  (h) The department may adopt rules and prescribe forms to implement this section.  SECTION 3. [EFFECTIVE JANUARY 1, 2008] (a) IC 6-3-1-3.5, as amended by this act, applies only to taxable years beginning after December 31, 2007.  (b) IC 6-3-2-21, as added by this act, applies to taxable years	annual state tax return or returns in the manner prescribed by the	's 1e
determination of the exemption provided by this section.  (h) The department may adopt rules and prescribe forms to implement this section.  SECTION 3. [EFFECTIVE JANUARY 1, 2008] (a) IC 6-3-1-3.5, as amended by this act, applies only to taxable years beginning after December 31, 2007.  (b) IC 6-3-2-21, as added by this act, applies to taxable years	determination of the exemption provided by this section.  (h) The department may adopt rules and prescribe forms to implement this section.  SECTION 3. [EFFECTIVE JANUARY 1, 2008] (a) IC 6-3-1-3.5, as amended by this act, applies only to taxable years beginning after December 31, 2007.  (b) IC 6-3-2-21, as added by this act, applies to taxable years	<u> </u>	
<ul> <li>(h) The department may adopt rules and prescribe forms to implement this section.</li> <li>SECTION 3. [EFFECTIVE JANUARY 1, 2008] (a) IC 6-3-1-3.5, as amended by this act, applies only to taxable years beginning after December 31, 2007.</li> <li>(b) IC 6-3-2-21, as added by this act, applies to taxable years</li> </ul>	<ul> <li>(h) The department may adopt rules and prescribe forms to implement this section.</li> <li>SECTION 3. [EFFECTIVE JANUARY 1, 2008] (a) IC 6-3-1-3.5, as amended by this act, applies only to taxable years beginning after December 31, 2007.</li> <li>(b) IC 6-3-2-21, as added by this act, applies to taxable years</li> </ul>	all information that the department determines is necessary for tl	ne
implement this section.  SECTION 3. [EFFECTIVE JANUARY 1, 2008] (a) IC 6-3-1-3.5, as amended by this act, applies only to taxable years beginning after December 31, 2007.  (b) IC 6-3-2-21, as added by this act, applies to taxable years	implement this section.  SECTION 3. [EFFECTIVE JANUARY 1, 2008] (a) IC 6-3-1-3.5, as amended by this act, applies only to taxable years beginning after December 31, 2007.  (b) IC 6-3-2-21, as added by this act, applies to taxable years	determination of the exemption provided by this section.	
SECTION 3. [EFFECTIVE JANUARY 1, 2008] (a) IC 6-3-1-3.5, as amended by this act, applies only to taxable years beginning after December 31, 2007.  (b) IC 6-3-2-21, as added by this act, applies to taxable years	SECTION 3. [EFFECTIVE JANUARY 1, 2008] (a) IC 6-3-1-3.5, as amended by this act, applies only to taxable years beginning after December 31, 2007.  (b) IC 6-3-2-21, as added by this act, applies to taxable years	(h) The department may adopt rules and prescribe forms	to
as amended by this act, applies only to taxable years beginning after December 31, 2007.  (b) IC 6-3-2-21, as added by this act, applies to taxable years	as amended by this act, applies only to taxable years beginning after December 31, 2007.  (b) IC 6-3-2-21, as added by this act, applies to taxable years	implement this section.	
after December 31, 2007. (b) IC 6-3-2-21, as added by this act, applies to taxable years	after December 31, 2007. (b) IC 6-3-2-21, as added by this act, applies to taxable years	SECTION 3. [EFFECTIVE JANUARY 1, 2008] (a) IC 6-3-1-3.	5,
(b) IC 6-3-2-21, as added by this act, applies to taxable years	(b) IC 6-3-2-21, as added by this act, applies to taxable years	as amended by this act, applies only to taxable years beginning	ıg
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beginning after December 31, 2007.	beginning after December 31, 2007.	(b) IC 6-3-2-21, as added by this act, applies to taxable year	rs
		beginning after December 31, 2007.	

